

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

DANIEL VALLEJO RECIO,
Institutional ID No. 598857,

Plaintiff,

v.

RUDY VASQUEZ,¹ *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 5:18-CV-264-C

**ORDER ACCEPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. No objections were filed. The District Court made an independent examination of the record in this case and reviewed the Magistrate Judge's Report and Recommendation for plain error. Finding none, the Court **ACCEPTS** and **ADOPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate.

IT IS THEREFORE ORDERED that

- 1) Plaintiff's claims for retaliation and deprivation of property against all Defendants are **DISMISSED** with prejudice under 28 U.S.C. § 1915A.
- 2) Plaintiff's claims for deliberate indifference to serious medical needs against Defendants Lieutenant White, Sergeant Camrroon, Nurse Saucedo, and Nurse Hernandez are **DISMISSED** with Prejudice under 28 U.S.C. § 1915A.
- 3) Plaintiff's request for a criminal indictment against Offender Adams is **DENIED** and any claims against Offender Adams are **DISMISSED** with Prejudice under 28 U.S.C. § 1915A.

¹ The Court adopts the Magistrate Judge's findings regarding the correct spelling of Defendants' names and changes the caption of this case accordingly. Doc. 30 at 3. The Court also adopts the Magistrate Judge's findings as to the complete list of Defendants named by Plaintiff (*Id.*), and the identity of unnamed Defendants. Doc. 30 at 5. The Clerk is directed to change the docket to include the names (as well as corrected spellings) of all of the Defendants identified by the Magistrate Judge.

- 4) There is no just reason for delay in entering a final judgment and final judgment should be entered as to the above-named Defendants and claims pursuant to Federal Rule of Civil Procedure 54(b).
- 5) Plaintiff's claims against Defendants Rudy Vasquez and Erik Cerbantez for excessive use of force and Plaintiff's claims against Defendants Nathan Martinez, Rudy Vasquez, Erik Cerbantez, and Michael Thomason for deprivation of food and water will proceed with service of process as follows:

The Clerk shall transmit to the Attorney General a copy of this Order, together with a copy of Plaintiff's Complaint (ECF No. 3) and Verified Complaint (ECF No. 4). The documents shall be transmitted by email to the appropriate email addresses at the Office of the Attorney General for the State of Texas. *See* Fed. R. Civ. P. 5(b)(2)(E).

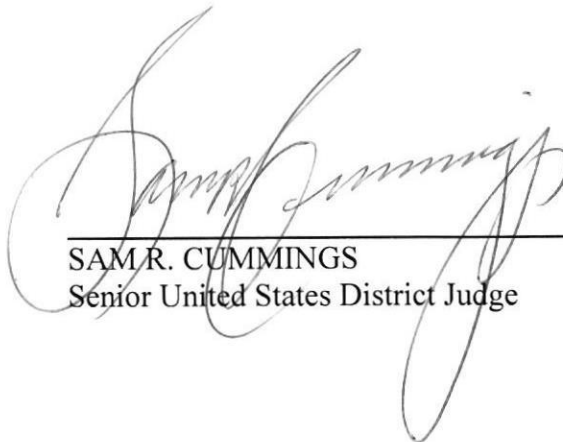
Defendants Rudy Vasquez, Erik Cerbantez, Nathan Martinez, and Michael Thomason shall file an answer or other responsive pleading within thirty (30) days of the date of service of this Order.

If a Defendant is no longer employed by the Texas Department of Criminal Justice and will not be contacted and represented by the Attorney General's Office, the Assistant Attorney General assigned to this case shall provide the Court with each such Defendant's last known address, UNDER SEAL WITHOUT A MOTION, on or before the date on which the Defendant's answer is otherwise due.

Judgment pursuant to Rule 54(b) shall be entered accordingly.

SO ORDERED.

Dated March 17, 2020.



SAM R. CUMMINGS
Senior United States District Judge